

Lindquist involvement in deputy investigation at center of phone records case

By Sean Robinson
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Pierce County Prosecutor Mark Lindquist arrives for the 28th District Democrats meeting at Round Table Pizza in University Place on June 4. LUI KIT WONG — Staff photographer [Buy Photo](#)

One could argue that Pierce County Prosecutor Mark Lindquist owns the world's priciest mobile phone.

At 9 a.m. Thursday, the Washington State Supreme Court will hear arguments about Lindquist's private phone, and whether a judge should be able to privately review the records it contains to determine whether they pertain to public business.

The case, *Nissen v. Pierce County*, is in its fourth year. The legal bills so far: at least \$282,490, according to the latest figures from the county's risk management department.

The money has gone to outside attorneys, hired at public expense to defend Lindquist's and the county's position and guard his phone records.

Attorneys for the county and Lindquist say the records are not public, that Lindquist has already voluntarily provided enough material, and that they're defending the rights of all public employees, not just the prosecutor. They contend a deeper review by a court would violate Lindquist's privacy rights and shouldn't take place.

Open-government advocates say the disputed records are public regardless of the device that contains them and that a private, in-camera review by a court would settle the question.

A TANGLED TALE

Behind that story is another one: a tangled tale of political attacks, a death threat mailed to a deputy prosecutor, a ruined friendship and a criminal investigation that forced veteran deputies from the Sheriff's Department to scrutinize one of their own.

The investigation targeted sheriff's Deputy Glenda Nissen, an 18-year veteran of the department. Five years ago, to her lasting regret, she sent a ranting email to The News Tribune in the middle of the night. She's never denied it.

At almost the same time, Nissen was suspected of sending the death threat to the deputy prosecutor. She's always denied it, and the investigation found no forensic evidence to prove otherwise. She was never charged with a crime — but the stain remains.

Where does Lindquist fit in? Nissen is seeking his phone records because she and her attorney, Joan Mell, believe the records will show he retaliated against the deputy for political reasons.

The News Tribune recently reviewed investigative and court records associated with the Nissen case, and interviewed parties familiar with the death threat investigation. Some spoke on condition of anonymity, citing fear of Lindquist, who faces two active [whistleblower complaints](#) filed by employees of his office who accuse him of retaliation for political reasons.

At the time of the 2011 investigation, Lindquist portrayed himself as a passive observer, receiving updates from sheriff's deputies and waiting to see the findings.

Records and interviews conducted by The News Tribune tell a different story. They show Lindquist and his high-ranking staff members steered the investigation, and that Lindquist, constantly on the phone, called deputies repeatedly, seeking information.

The same sources say Lindquist discouraged investigators from pursuing other suspects, including one of his own staff members. Lindquist denies it, and his lieutenants say sheriff's deputies ran the inquiry on their own.

Concerns about Lindquist's perceived interference were reported to commanders in the Sheriff's Department, up to and including Sheriff Paul Pastor.

"This was Lindquist trying to pull all the strings," one source said.

The phone records in dispute illuminate another plain point: Using his phone, Lindquist worked to manage a news story directly related to his office.

THE EMAIL

In summer 2010, Lindquist, appointed as prosecutor the previous year by the County Council, was embarking on his first campaign.

He coveted the endorsement of the county sheriff's guild, the union representing deputies. The guild gave a dual endorsement — to Lindquist and deputy prosecutor Bertha Fitzer, Lindquist's opponent.

Nissen, a guild member, supported Fitzer openly and had been critical of Lindquist earlier in the year. The prosecutor knew it; he and Nissen had exchanged letters about some of her statements.

June 6, 2010, was a Sunday. Nissen worked a shift on the sheriff's marine unit from 11 a.m.-7 p.m., according to records.

At some point after her shift, Nissen spoke to her longtime friend Lisa Wagner, a deputy prosecutor.

Wagner had bad news. She'd just met with another prosecutor, Jim Schacht, who delivered a message from Lindquist: Wagner might want to start looking for other job opportunities.

Both women thought they knew what that meant. Lindquist, already in charge, was running in his first election with all the advantages of an incumbent, plenty of money and an opponent with no campaign experience. He expected to win.

When he did, Wagner would have no role in the new administration — and why? Because Wagner was Nissen's friend, and Nissen had openly opposed Lindquist.

Wagner stood to lose her job because of it — because of Nissen and her big mouth.

"(Wagner) said, yeah, because of me," Nissen said in a recent interview. "I took that very personally. And now people were gonna get fired because of me."

Nissen went home to Olalla after her shift. She drank a beer and fumed. She couldn't sleep.

From her county-issued Blackberry, she sent a ranting email to David Zeeck, publisher of The News Tribune. It arrived in Zeeck's mailbox at 12:25 a.m. on June 7, 2010, according to records.

Nissen wrote that Lindquist was going to fire "my friend" Wagner; she blamed herself and attacked the prosecutor with a blowtorch.

"He is unethical and corrupt, and the community needs to know," Nissen wrote. "There is so much he has done to threaten or intimidate people."

There was more. Nissen rambled. She called Lindquist evil, a criminal. She accused him of exploiting the killings of four Lakewood police officers for political gain. She said he ordered his chief criminal deputy prosecutor, Mary Robnett, to play dirty tricks in the campaign. She said Lindquist needed to be investigated.

As her email trailed off, she asked Zeeck not to use her name.

The night dragged. Nissen still couldn't sleep. She berated herself; the email was a stupid mistake.

More than three hours later, she tried to retract it and stop it from being delivered. It didn't work. At 3:50 a.m., she sent another email to Zeeck.

"Mr. Zeeck,

Please disregard my email regarding Mr. Lindquist. The damage it could do to many innocent people would be devastatng (sic). Please disregard it. I do not want to lose my job or cause others to lose theirs.

Respectfully,

Glenda Nissen"

A few hours later, Nissen, having barely slept, called in sick and took the day off. In police reports and subsequent interviews, she said she never left the house. She called Wagner and told her about the email. Wagner was furious.

"She called me over to her house to tell me about it, and I remember when she told me about it, ah, just how angry I was that I didn't know about it beforehand. ... I specifically asked her if she had used my name in the email, and she said that she had, which really shocked me, and that really caused me a lot of concern about the fact that I was just learning about it."

– Wagner statement to

sheriff's detective Denny Wood

(police report)

Meanwhile, at The News Tribune, Zeeck forwarded Nissen's emails to a small group of newsroom staffers. His only comment was "fyi." No one in the email chain shared it outside the building or discussed it with sources.

THE THREAT

The next day —Tuesday, June 8 — marked a series of events that still reverberate five years later.

- Nissen went to work for an hour and reported her actions to her supervisor. She described the emails she had sent, and the content.

Her supervisor asked whether she'd done anything else; Nissen said she hadn't.

The paperwork trail started; she faced an internal affairs investigation. Knowledge of Nissen's actions — a deputy ripping an elected official via public email — swiftly climbed the chain of command to Craig Adams, legal adviser to Sheriff Pastor.

- Wagner called Zeeck and begged him not to do anything with the email. She said it could ruin her career. A little later, Wagner called News Tribune reporter Adam Lynn, one of the staff members who had seen the email. She repeated her request not to write anything about it.

The News Tribune didn't write a story. Editors took note of Nissen's email, but they didn't see it as newsworthy in itself; random rants from public employees (and citizens) criticizing elected officials were common.

- The actions at the newspaper and the Sheriff's Department were routine, but something else happened June 8 that would taint Nissen's career.

At home in Tacoma, deputy prosecutor Mary Robnett, one of Lindquist's highest-ranking lieutenants, got a letter in her mailbox.

The letter had a Seattle postmark, dated June 7. It was addressed to "Mary E. Robnett," the formal name she used in charging papers. It had no return address. A piece of clear tape, smudged, was pasted over the address on the envelope.

Robnett didn't open the letter until the next day, June 9. Inside the envelope was a single sheet of paper with a typed message and odd misspellings. It opened with a question:

Are you a candidat?

Eight Internet links followed. They referred to news stories and videos about lawyers, prosecutors and judges being shot and killed.

It was a death threat, the first Robnett had received in her 16-year career.

The letter closed with another series of misspelled sentences.

Yur decisions regardening my friend cannot be xcused. Yu were nawty, and you deserve a similer faat as those abuve. You went two farr.

o, o, o, owch thet hurtz!

The next day – June 10, 2010 – Robnett turned the letter over to Keith Barnes, an investigator who worked for the prosecutor’s office.

Prosecutors were alarmed, and Robnett was afraid; the fatal shooting of Seattle federal prosecutor Thomas Wales in 2001 (still unsolved) loomed in local memory.

Barnes handed the letter off to Tim Kobel, a veteran sheriff’s detective. The criminal investigation was underway.

Around the same time, Lindquist, already aware of the threat letter, learned of Nissen’s email to Zeeck, according to investigative records. Lindquist recalled being annoyed that he hadn’t been told sooner, a police report states.

THE INVESTIGATION

Kobel also knew about Nissen’s email to The News Tribune. It was sent June 7. The threat letter to Robnett was postmarked June 7.

Was it coincidence? Kobel’s reports, filed later, state that he focused on one phrase in the letter. He’d heard it before — from Nissen, when she had worked for him.

“We had a lot of job interaction and at times I heard Detective Nissen use the term, ‘they were naughty, he or she was naughty.’ It is the combination of the events and the terminology that has developed Nissen as a possible suspect.”

– Kobel police report

Nissen became the prime suspect. The investigation ran through the summer and fall, without her knowledge.

Lindquist and his chief of staff, Dawn Farina, tracked the developments. Sources familiar with the case told The News Tribune that Lindquist called detectives regularly, sometimes in the evenings, looking for the latest information.

In her initial self-reporting to her supervisor, Nissen had admitted sending the email to the newspaper. She never mentioned a letter — to her employers or anyone else, according to records compiled by investigators.

During the separate internal investigation she faced for sending the email, detectives searched Nissen's public phone and laptop. They found evidence of the email and activity suggesting deletions on her county laptop (Nissen had admitted trying to delete her email). They found nothing tied to the threat letter.

Kobel, working the criminal case, checked internal sheriff's logs regarding the threat letter to see who had accessed the incident report. Nissen had not.

His first instinct was forensic; if the letter included any traces of Nissen's DNA, that would clinch it. Kobel sent the threat letter to the Washington State Patrol crime laboratory for forensic testing. He warned crime lab technicians to keep the inquiry quiet.

"I called D/S Kobel. Apparently there is some sort of rift in the Prosecutor's Office (politically based, he thinks), and this has filtered down into PCSD. ... Obviously this case is very sensitive, and while D/S Kobel is not asking for a high priority, he wants to keep a lid on any information about this investigation."

– state crime lab notes,

July 13, 2010

The test results: no prints, but an analyst found traces of DNA on the tape affixed to the threat letter envelope.

Without Nissen's knowledge, Kobel and another veteran sheriff's detective, Todd Karr, obtained samples of her DNA from a discarded cigarette butt and a soda can and sent it to the crime lab for possible comparison purposes.

It was a long shot. The lab results on the threat letter were iffy. The DNA from the envelope was too wispy for a complete profile; the only certainty was that it came from a male. That didn't match Nissen.

The crime lab analyst relayed the result to Dawn Farina at the prosecutor's office. They discussed the possibility of more tests, perhaps by the U.S. Postal Service.

A NEW INVESTIGATOR

On Nov. 2, 2010, Lindquist cruised to an easy election victory over his opponent, Bertha Fitzer, winning 61 percent of the vote — 150,529 to 95,266.

The threat letter investigation had been running for five months. Nissen was still unaware of it, and Kobel had found no forensic evidence linking her to the letter.

Lindquist was pressing for information, according to records. Kobel and Karr were both getting calls. They exchanged emails about it on Nov. 30.

“Todd, Mark called twice today to get an update,” Kobel wrote. “I have not returned his calls as yet.”

“I have a voice mail message from Mark L. also,” Karr replied. “I will call him back today or manana.”

Karr handed the case to another veteran sheriff’s detective, Denny Wood.

It was already assumed that the results of the investigation would be sent to an outside prosecutor’s office due to the obvious conflicts of interest.

When Wood was briefed, he suggested an outside agency should handle the investigation itself, given the personal stakes of the parties involved. His superiors batted the idea down and said the case was a top priority.

Wood reviewed the case file. On Dec. 6, 2010, he and Karr met with Lindquist, Farina and Robnett to discuss investigative plans, police reports state.

During the meeting, according to sources, Lindquist said he suspected Wagner, the deputy prosecutor, had been feeding Nissen negative information about him. He wanted Wood to verify it. He mentioned the email Nissen had sent to The News Tribune.

Wood replied that he preferred to avoid office politics; he would conduct the criminal investigation, and that was all. Lindquist repeated that he needed to know whether Wagner had been feeding information to Nissen.

As the investigation progressed, Lindquist phoned Wood repeatedly, asking for information on the case. Wood reported the volume of calls to his superiors and colleagues.

‘ADAMANTLY DENIED’

On Dec. 14, 2010, Wood and Karr interviewed Nissen on the pretext of seeking her help in an investigation. The police report states Wood showed her a copy of the threat letter envelope and asked if she recognized it.

Nissen looked at it, looked up and said she didn’t.

Wood showed her a copy of the threat letter and asked if she recognized it.

Nissen looked and said she didn't.

Wood revealed the real purpose of his inquiry: Nissen was suspected of sending the letter to Robnett.

“Detective Nissen adamantly denied sending the letter, creating the letter, having any knowledge of the letter. She admitted that she sent the email to David Zeeck at the Tacoma News Tribune (TNT), but again denied having anything to do with the letter. She said she had no idea where Robnett lived or what her address was.”

– Wood police report

Wood told Nissen she didn't have to say anything. Nissen said she wanted to talk. Wood explained the apparent links between the letter and the email: the dates, the reference in both documents to “my friend,” the “Yu were nawty” line.

Nissen said she understood — but she continued to deny having anything to do with the letter. Her email was an outburst, she said; the letter was a crime.

Wood and Karr asked whether Nissen would consent to a search of her home in Olalla. She agreed, and signed a consent form for a search warrant. Nissen declined to take a law enforcement polygraph test, though she later took a private polygraph and passed it.

“Nissen told me that I needed to find out who sent the letter or people would always think she did,” Wood's report states.

The detectives examined Nissen's work papers, her envelopes and her stamps. They found a laptop computer that belonged to Wagner and took it in as evidence. Nissen, who didn't own a computer, said she borrowed it from Wagner to file income taxes.

That night, according to records, Lindquist called Wood for an update. Wood relayed the message to Karr via email.

“Todd, Mark Lindquist called at about 1900 and wanted to know how the day went. I gave him generic, noncommitted brief and told him I would fill everyone in tomorrow. Ended the conversation with, “It's an ongoing active investigation.”

– Wood email, Dec. 14, 2010

The next day, Wood interviewed Wagner. She said she knew about the Nissen's email, but not the threat letter. She said she would have reported it if she had. She said Robnett had to be terrified.

“(Wagner) was visibly upset (crying, shaking, rubbing her hands together frequently) during the entire interview,” Wood wrote in his police report.

Wagner said the letter was disturbing, a crime — but she added she didn't believe Nissen sent it, and she didn't know anyone who would, though she understood why detectives suspected Nissen.

INTRUSION

Nissen's ranting email to The News Tribune had mentioned Bertha Fitzer, the deputy prosecutor who lost the election to Lindquist and had since left the prosecutor's office. Wood interviewed her.

Fitzer said she didn't know anything about the email or the threat letter and had never seen either document before. She acknowledged Nissen supported her in the election and that Fitzer's adult son had befriended Nissen during that time.

Fitzer said she would be shocked if Nissen had sent the threat letter. Wood asked her whether anyone else in the prosecutor's office could have sent it.

Fitzer paused, and gave a name: a deputy prosecutor who had clashed with Robnett and lived in Seattle.

"I think he hates her," Fitzer said, according to a transcript of the interview.

Wood noted the statement in his report. Later that day, he spoke to Robnett and mentioned what Fitzer had said.

Robnett said the deputy prosecutor Fitzer had mentioned was a viable suspect with a history of disciplinary issues — smart enough to research the list of Internet links and the news stories of slain prosecutors.

Sources familiar with the investigation say Lindquist learned that Wood was exploring the possibility of other suspects, including Fitzer, her son and the unnamed deputy prosecutor.

Lindquist discouraged Wood from pursuing the deputy prosecutor angle, at first personally and later through intermediaries; he urged Wood to focus only on Nissen, sources say.

Typically, prosecutors and detectives work together on criminal cases, share information and exchange ideas. It's standard practice; but this was no standard case.

The suspect worked for the county. The investigators worked for the county. The victim worked for the county, and Lindquist, the victim's boss, worked for the county.

Though Lindquist was concerned about his employee's safety, he was angling for information no civilian victim could obtain under normal circumstances and pushing detectives to pursue his preferred angles.

“That’s not the way it’s done,” said a source familiar with the investigation. “You don’t report to the elected prosecutor. You don’t direct how an officer investigates. Absolutely it’s inappropriate.”

Wood reported his concerns about Lindquist’s perceived interference to his superiors, sources say. The pressure from Lindquist led to internal arguments between detectives and Lindquist’s lieutenants.

Sources told The News Tribune one of those arguments led to a shouting match at the Sheriff’s Department, after a request from Lindquist to conduct a third analysis of Nissen’s phone.

The confrontation ended with Wood suggesting Lindquist’s team should simply execute Wagner and Nissen, since they didn’t need or want evidence.

ANOTHER UPDATE ‘ASAP’

The investigation continued. Nissen’s laptop computer and phone were analyzed again. She provided complete logs of her private phone records. Again, the analyses found no links to the threat letter.

Wood interviewed officials at the U.S. Postal Service, who confirmed the Seattle postmark on the envelope, and said it could have been mailed from anywhere in King County, according to the police report. (Nissen lived in Olalla, in Kitsap County.)

Records show that detectives suggested Lindquist could ask the state crime lab to take another shot. He did, on Jan. 4, 2011, asking analysts to “go the extra mile” and run another test on the envelope.

Lindquist kept pressing the detectives and their boss, Pastor, for information. The sheriff asked his detectives for a briefing.

“Prosecutor Mark Lindquist has been in communication with the sheriff and has expressed his opinion that the original suspect (Nissen) is the one who sent this letter. The Sheriff would like all the information from all of us, so please be there.”

– Email from Karr to Kobel,

Wood and sheriff’s Capt. Brent

Bomkamp, Jan. 20, 2011

On Feb. 11, 2011, an email from Capt. Brent Bomkamp to Wood and Karr asked for another update “ASAP” on the investigation. Wood replied, saying the latest tests from the state crime lab didn’t add any new information.

“Thanks,” Bomkamp replied. “The sheriff wanted an update because Lindquist was calling again.”

In March 2011, Wood interviewed the deputy prosecutor who reportedly disliked Robnett. Wood unveiled the letter. The prosecutor looked at it. He acknowledged clashes with Robnett, but said he knew nothing about the letter, police reports state.

His personal computer and phone were not examined, and his home was not searched. Only Nissen received that level of scrutiny — and months of investigation had failed to produce a single piece of forensic evidence against her.

The investigation was over. Wood filed his final summation to Karr on March 21, 2011.

“My report for this mess has been submitted. Please let me know if anything needs to be changed or if I missed something obvious. This thing will be scrutinized to the nth degree and there’s a good chance I’ll (be) made the fool. Thanks.”

– Wood email to Karr

Detectives forwarded their findings to the Kitsap County Prosecutor’s Office for a charging decision and waited.

OTHER SUSPECTS?

One question went largely unexplored in the Nissen investigation:

What if she wasn’t lying?

Was it possible someone else sent the threat letter — someone with no ties to the prosecutor’s office and no political ax to grind against Lindquist?

Robnett was the county’s chief criminal deputy prosecutor, the lead enforcer. She’d convicted killers, gangsters and rapists. Any of them, or their families and friends, could have gnawed a grudge. Wood briefly alluded to that prospect in his police reports.

A few days before the threat letter arrived in Robnett’s mailbox, her name was linked to a notorious case, headlined on news sites and newscasts throughout the region as the Craigslist murder.

A group of thieves using online Craigslist postings as a launching pad for a series of thefts had robbed an Edgewood family at gunpoint. One of them fatally shot James Sanders in front of his family. The killers fled.

On June 1, 2010, Robnett charged a young associate of the murder suspects with rendering criminal assistance. The associate had tipped off sheriff’s detectives to the killers’ identities. The associate (and the associate’s friends) lived in King County.

The story and the charging papers, signed by Robnett, were posted on various news sites June 2, listing her full name with the middle initial: the same honorific that appeared on the threat letter envelope she received six days later. Her home address in Tacoma was readily available through simple Internet searches.

That angle — and others involving Robnett's recent criminal cases — went unexplored, according to records of the investigation.

BARRED

On March 30, 2011, shortly after the final reports of the Nissen investigation were sent to Kitsap County for a possible charging decision, Nissen received a phone call from the prosecutor's office.

The message: She was barred from entering the area where prosecutors worked.

Nissen sent a note to Karr and her immediate supervisors explaining the restriction.

Karr forwarded the note to the sheriff's command staff, and added a comment: "Here it comes."

Rick Adamson, the sheriff's chief of operations, replied within minutes and cc'd Pastor in the string:

"I think this is ridiculous!!!"

Karr later sent a separate note to Nissen — an email that appears in legal records.

"I don't know what to tell you about this," he wrote. "I don't like it, but I have no control or influence when it comes to these types of decisions."

He added a note of encouragement.

"Glenda, don't let the b#@'s get you down."

In a later email, Karr told the sheriff and his commanders what he thought:

"This whole approach is bothersome, at best, to me. Frankly, I am having a difficult time accepting this approach as being professional."

A SETTLEMENT

Frustrated after nine months of investigation and knowing detectives had found no forensic evidence linking her to the threat letter, Nissen hired Fircrest attorney Joan Mell and filed a \$2.5 million claim for damages against the county.

She accused Lindquist of trying to get her fired, wrongly barring her from the prosecutors' office and retaliating against her because she had opposed him politically.

She filed a separate bar complaint with the Washington State Bar Association, accusing Lindquist and other prosecutors of misconduct.

The bar association dismissed the complaint. Internal talk at the prosecutor's office included the prospect of Robnett suing Nissen.

The legal tussle over Nissen's damage claim led to protracted settlement discussions; John Ladenburg, a former county executive and county prosecutor, tried to mediate between Nissen, Mell and Lindquist.

On June 8, 2011, Ladenburg gave up and cautioned both sides against further litigation.

"I believe the time for mediation is over," Ladenburg wrote in an email to Lindquist and Mell. "Unless both sides are more willing to move to the middle, I don't see a resolution."

The talks dragged on for another six weeks. The News Tribune published a story about Nissen's claim on June 18, 2011. A year after the incidents, the accounts of Nissen's email to the newspaper and the death threat letter became public.

Interviewed at the time, Lindquist said sheriff's deputies kept his office up to speed on the investigation and that prosecutors discussed the case with them.

Eventually, the two sides reached an agreement: the county would pay \$39,500, and Nissen would agree to withdraw her claim. That agreement became fodder for another News Tribune story, first published Aug. 2, 2011.

Lindquist's phone records from that date are the linchpin of the public records argument the state Supreme Court will consider Thursday. Nissen contends Lindquist, using his phones, created public records about government business by trying to manage the wording of the news story.

'HE'S CALLED ME TWICE TODAY'

The story was short; fewer than 600 words published online, written by reporter Adam Lynn, who had learned of the settlement between Nissen and the county. Lynn had been seeking comment from county officials.

Behind the scenes, according to public records, Lindquist was working the phones, bouncing between his private and public devices, managing the wording of the county's statement.

County spokesman Hunter George was playing go-between. In an email to county risk manager Mark Maenhout, he relayed Lindquist's worries about the statement:

“He (Lindquist) wants to negotiate over version 2. His concern is that by settling it appears his office did something wrong. ... He’s called me twice today. He desperately wants to talk to you (though I’ve advised him that you’re on vacation).”

– George email, Aug. 2, 2011

Partial records from Lindquist’s phone bills appear in the public records case. They show a series of calls and text messages on Aug. 2, to and from Lindquist’s phones (some on the private device, some on the public one), sandwiched around George’s calls to Lynn, the reporter, who was being asked to make a change in the story.

According to records from Lindquist’s phone bill, he spoke to George immediately before and immediately after George spoke with the reporter. In the midst of those calls, Lindquist was also speaking to sheriff’s spokesman Ed Troyer, by phone and text.

The original version of the story said the threat letter investigation did not identify a suspect. After discussions with George, who had been consulting with Lindquist, the sentence of background was removed in the printed version as a routine revision.

However, Mell, who also had been asked for a comment on the story, was hot; the settlement included a stipulation that the two sides would not disparage each other. She suspected Lindquist was violating the terms by seeking removal of the sentence in question.

The day after the story appeared, she filed a public records request, seeking records of Lindquist’s personal phone calls and text messages.

On Aug. 12, 2011, the Kitsap County Prosecutor’s Office issued its decision. Prosecutors declined to file charges against Nissen in the threat letter case.

“Our decline reason: Insufficient Evidence Suspect Committed Crime,” the decision states.

RECORDS REQUEST

Mell waited for an answer to her request for phone records. Lindquist initially provided a set of records without protest, but portions of the call logs were redacted, with claims of personal privacy.

Eventually, Nissen sued Pierce County for withholding public records. She filed the case in Thurston County. She asked a judge to conduct a private review of the redacted portions of Lindquist’s phone records for any calls or texts that might be related to public business.

The county and Lindquist won the first go-round. Nissen won subsequent arguments on appeal, pushing the case to the state Supreme Court.

Back-and-forth briefings in the case have been contentious. Attorneys for the county and Lindquist suggest the text messages might not even exist anymore. Lindquist has said he doesn't remember what's in them.

In the five years since the original incidents, the issue has outgrown the circumstances and turned into a debate about public records on private devices. Both sides predict dire consequences if the other prevails.

Open-government advocates, including news organizations, argue that such records are still public, and add that denying disclosure would allow public officials to hide public business on private phones. (News Tribune Executive Editor Karen Peterson serves on the board of the Washington Coalition for Open Government, one of the entities that filed briefs in the case.)

Prior decisions from the high court say a public record is defined by its content, regardless of the device that contains it. The state attorney general's office has filed a brief in the case that underlines the point.

Guidelines to local governments from the secretary of state's office add emphasis: "If the text messages relate to the work of the agency, then it does not matter if the device involved is agency-owned or personally-owned; the records are still public records."

Attorneys for the county and Lindquist argue that allowing a judge to review private phone records opens the door to fishing expeditions for private records of all public employees, from teachers to police officers. They raise the prospect of prison inmates and gadflies harassing public officials with frivolous, invasive records requests.

The county has hired outside attorneys to argue on its behalf, including former state Supreme Court Justice Phil Talmadge.

Friend-of-the court briefs filed by public employee unions represent the latest twist. A whistleblower complaint filed May 21 against Lindquist contends the briefs — presented as independent arguments from outside entities — were prepared by Lindquist's staff on public time.

Watching legal arguments from the sidelines, Nissen waits. She's the plaintiff. The case wouldn't exist if she hadn't demanded the phone records. She continues to work as a sheriff's deputy, and she says prosecutors subject the cases she investigates to extra scrutiny.

She's never stopped denying she sent the threat letter. She regrets the email she sent to The News Tribune and shakes her head whenever she thinks of it. She was disciplined for it and served a three-day suspension without protest. Her long friendship with Wagner, the deputy prosecutor, was destroyed; all because of one stupid mistake, a broken moment that can't be mended.

“I just want my life back,” she said in a recent interview. “I deserved to be disciplined — I didn’t deserve all the stuff that surrounded it.”

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Read more here: http://www.thenewstribune.com/2015/06/10/3832221_lindquist-involvement-in-deputy.html?rh=1#storylink=cpy